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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

APR 2 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re Applications of)	MM Docket No. <u>93-53</u>
KR PARTNERS)	File No. BPH-911001MB
KES COMMUNICATIONS, INC.)	File No. BPH-911003MH
LORI LYNN FORBES)	File No. BPH-911004MH
For Construction Permit for a)	
New FM Station on Channel 256C)	
in Waimea, Hawaii)	

To: Honorable Joseph P. Gonzalez
Administrative Law Judge

MOTION TO STRIKE

KES Communications, Inc. ("KES"), by Counsel, hereby moves to strike the "Opposition to Petition for Leave to Amend" filed by Lori Lynn Forbes ("Forbes") on March 31, 1993. In support hereof, KES submits the following:

Background

1. On March 22, 1993, KES submitted a "Petition for Leave to Amend and Re-Submission of Amendment." Forbes opposed KES's petition and re-submitted amendment by way of the subject March 31, 1993 opposition pleading.

2. Also on March 22, 1993, KES filed its "Notice of Appearance" in this proceeding, which is a pre-requisite to KES availing itself of the processes of this comparative hearing.

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To date, Forbes has not filed its "Notice of Appearance" in this proceeding./¹

Forbes' Opposition Is Invalid

3. Pursuant to Section 1.221 of the Commission's Rules, as well as the *Hearing Designation Order, DA 93-239* (released March 16, 1993), any party listed in the caption of this docketed proceeding must file its "Notice of Appearance" in order to go forward with the prosecution of its application. To date, Forbes has voluntarily chosen not to file its "Notice of Appearance," yet has decided to oppose KES's petition and re-submitted amendment. Forbes, who has not stated her intention to be a party to this proceeding, nonetheless asks the Presiding Judge to take certain actions *via-a-vis* KES's petition and re-submitted amendment.

4. Forbes cannot have it both ways. She cannot stand on the side lines as a non-party and also file pleadings in the proceeding. Forbes is abusing the Commission's processes, and trying to manipulate the process for some unknown reason. Accordingly, the filing of Forbes' opposition pleading violates Commission Rules and disrupts the orderly conduct of this proceeding.

¹ Counsel for KES confirmed this in a telephone conversation with counsel for Forbes on April 2, 1993.

WHEREFORE, the foregoing premises considered, KES respectfully requests that the Presiding Judge STRIKE and DISREGARD the subject Opposition pleading filed by Forbes.

Respectfully submitted,

KES COMMUNICATIONS, INC.

Meyer, Faller, Weisman
and Rosenberg, P.C.
4400 Jenifer Street, N.W.
Suite 380
Washington, D.C. 20015

By:


Cary S. Tepper, Esq.

Its Attorney

(202) 362-1100

April 2, 1993

CERTIFICATE OF SERVICE

I, Cary S. Tepper, Esquire, hereby certify that on this 2nd day of April, 1993, I have served a copy of the foregoing "Motion to Strike" first-class, postage-prepaid, on the following:

*Hon. Joseph P. Gonzalez
Administrative Law Judge
Federal Communications Commission
2000 L Street, N.W., Room 221
Washington. D.C. 20554